

Before the
Federal Communications Commission

Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

.....
In re Applications of)

GAF BROADCASTING COMPANY, INC.,)

For Renewal of License of Station)
WNCN (FM), New York, New York)

CLASS ENTERTAINMENT AND)
COMMUNICATIONS, L.P.)

THE FIDELIO GROUP, INC.,)

For a Construction Permit for a New FM Station)
on 104.3 MHz at New York, New York)
.....)

MM Docket No. 93-54

File No.
BRH-910201WL

File No.
BPH-910430ME

File No.
BPH-910502MQ

To: The Honorable Joseph Chachkin
Administrative Law Judge

MOTION TO CONSOLIDATE REPLIES AND FOR EXTENSION OF TIME

The Guild's *Motion to Enlarge Issues* was filed on April 19, 1993. The Bureau's *Opposition* was filed on April 28, 1993, and GAF's opposition was required to be filed by May 4, 1993, *see* §§ 1.4(h) & 1.294(c)(1) of the Commission's Rules, 47 C.F.R. §§ 1.4(h), 1.294(c)(1) (1992) (but may have been filed a day earlier). Thus, the Guild presently is required to reply to the Bureau's *Opposition* by May 10, 1993, but will not be required to reply to GAF's opposition until May 13 or May 14, 1993, *see* 47 C.F.R. §§ 1.4(g)-(i), 1.294(c)(1) (1992).

The Guild's *Petition for Intervention* also was filed on April 19, 1993. The Bureau's *Opposition* was filed on April 28, 1993, and GAF's opposition is due by May 5, 1993, pursuant to an *Order* issued herein (FCC 93M-217, released April 30, 1993). If the Guild's *Petition for Intervention* is governed by 47 C.F.R. § 1.45(c) or § 1.294(c)(1) (1992),¹ the Guild must reply to GAF's opposition by Monday, May 17, 1993, but would have an earlier deadline of either May 14, 1993 (under § 1.45(c)) or May 10, 1993 (under § 1.294(c)(1)) with respect to the Bureau's *Opposition*. *See* 47 C.F.R. §§ 1.4(g)-(i), 1.45(c), 1.294(c)(1) (1992).

The purpose for which an extension is requested (apart from resolving any uncertainties as to when the Guild is required to reply) is to enable the Guild to file consolidated replies to the multiple oppositions that have been filed with respect to the matters pending herein, and to file such replies simultaneously with its replies in another closely related matter now pending

1. If 47 C.F.R. § 1.45(c) (1992) does not govern, 47 C.F.R. § 1.294(c)(1) (1992) should be deemed applicable here. Since the Guild's *Petition for Intervention*, as required by 47 C.F.R. § 1.223(b) (1992), addresses the matter of enlargement of issues, any responsive matter filed in respect of the *Motion to Enlarge Issues* would be equally relevant to the *Petition for Intervention*, and the interests of clarity and efficiency would be served by permitting the Guild to reply directly to the *Oppositions* to its *Petition for Intervention*. Subsection 1.294(c)(1) should be construed accordingly.

before the Commission.² A parallel request for an extension to May 17 is being made to the Commission simultaneously herewith.

As discussed above, owing to the intricacies of the Commission's Rules and to the different dates upon which the Bureau and GAF filed their various *Oppositions*, the Guild presently is subject to a number of different filing deadlines falling on several dates ranging from May 10 to May 17, 1993, with different reply dates potentially being applicable to the separate oppositions filed with respect to a single pleading. The instant request would simply make *all* of the Guild's replies due on May 17, 1993, the latest of the existing filing deadlines.

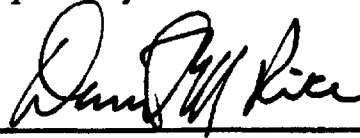
It is respectfully submitted that such coordination of filing dates and consolidation of pleadings would promote efficiency and help to conserve the resources of the Commission and all parties hereto. Particularly in the instant situation, where there is a close factual and legal relationship among the three pleadings involved, it would be most beneficial for the Guild to have the opportunity to coordinate its responsive pleadings that a simultaneous filing date would afford.

2. On April 14, 1993, the Guild filed a *Petition for Reconsideration of the Hearing Designation Order*, 8 FCC Rcd 1742 (1993). *Oppositions* were filed by the Bureau and GAF on April 28, 1993 and April 29, 1993, respectively. There thus is uncertainty as to whether the Guild is required to reply thereto on May 10, 1993, May 11, 1993, or both.

In light of the foregoing, the Guild respectfully requests that the Commission grant it an extension of time until May 17, 1993 in which to file consolidated replies to the Bureau's and GAF's *Oppositions* to its *Motion to Enlarge Issues* and their *Oppositions* to its *Petition for Intervention*.

Dated: May 5, 1993

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David M. Rice", is written over a horizontal line.

David M. Rice

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Attorney for Listeners' Guild, Inc.

CERTIFICATE OF SERVICE

I, DAVID M. RICE, hereby certify that the foregoing "MOTION TO CONSOLIDATE REPLIES AND FOR EXTENSION OF TIME" was served this 5th day of May, 1993, by mailing a true copy thereof by United States first class mail, postage prepaid, to each of the following:

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A handwritten signature in cursive script, reading "David M. Rice". The signature is written in dark ink and is positioned above a horizontal line.

David M. Rice